



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2016-0276]

RIN 1625-AA08

Special Local Regulation; Lake of the Ozarks, Lakeside, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for certain waters of the Lake of the Ozarks. This action is necessary to provide for the safety of life on these navigable waters near Lakeside, MO, during a powerboat race on June 4, 2016. This regulation designates prohibited areas for the race course and associated safety buffer, spectator areas, and location for vessels to transit during the race at no wake speeds. Deviation from the established special local regulation must be authorized by the Captain of the Port Upper Mississippi River or a designated representative.

DATES: This rule is effective from 9 a.m. to 6 p.m. on June 4, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0276 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Sean Peterson, Chief of Prevention, U.S. Coast Guard; telephone 314-269-2332, email Sean.M.Peterson@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On March 16, 2016, the Lake Race Steering Committee notified the Coast Guard that it will be hosting a powerboat race from 9 a.m. until 6 p.m. on June 4, 2016. In response, on April 20, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Lake of the Ozarks, Lakeside, MO (81 FR 23223). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this powerboat race. During the comment period that ended May 5, 2016, we received no comments.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. On March 16, 2016, the Coast Guard was notified of the event being held and an NPRM with a 15 day comment period was published on April 20, 2016. Though we are not providing a full 30 day notice period, the Coast Guard did provide notice and opportunity to comment through the NPRM process and is now providing less than 30 days notice before the final rule goes into effect on June 4, 2016. It is impracticable to provide a full 30-days notice because this rule must be effective

June 4, 2016.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port (COTP) Upper Mississippi River has determined that potential hazards associated with the powerboat race are a safety concern. The purpose of this rule is to ensure safety of vessels and the navigable waters in the special local regulation before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 20, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. This rule establishes a special local regulation from 9 a.m. until 6 p.m. on June 4, 2016, designating the race course and location of spectator areas. Vessels transiting near the course will be restricted to transiting at the slowest safe speed. This special local regulation covers navigable waters on the Lake of the Ozarks Osage Branch between miles 0 and 4. The Coast Guard has also posted a map depicting the location and restricted areas for this special local regulation in the docket. Six anchorage areas for spectators are designated and are also shown on the map and labeled as A through F. This map may be viewed as indicated under the ADDRESSES section. The duration of the regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after the power boat race, scheduled from 9 a.m. to 6 p.m. No vessel or person will be permitted to deviate from the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and

Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic will be able to safely transit around the race course and spectators will have designated locations to view the race. Moreover, the Coast Guard is including event information in the Local Notice to Mariners, and the rule allows vessels to seek permission to deviate from the regulation.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is

consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation designating the race course, location of spectator areas, and location for vessels to transit during

the race at slowest safe speed. It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100-- REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.T08-0276 to read as follows:

§ 100.T08-0276 Special Local Regulation; Lake of the Ozarks; Lakeside, MO.

- (a) Location. The following areas are regulated areas:

- (1) Lake of the Ozarks Osage Branch between miles 0 and 4; the Bagnell Dam and Birdsong Hollow Cove, covering the entire width of the branch. Access to the race course and associated safety buffer area will be prohibited to authorized vessels only. The safety buffer area

for the course will be marked with blue buoy markers. Vessels transiting outside of the safety buffer area shall proceed at no wake speed. See attached map for additional information on location.

(2) Six designated areas will be available for spectators for the duration of the races. The designated anchorage areas will be marked with blue and yellow buoy marker. They are labeled A-F on the attached map. The anchorage areas are located a minimum of 100 feet outside the race course safety buffer area marked with blue buoy markers. The six anchorages are located in the following areas: Branch Rd Point; Emerald Ln Point; Lotell Hollow Cove; McCoy Branch Cove; west of Duck Head Point; and Jennings Branch Cove. In addition to the listed designated anchorages, vessels may also anchor inside the protective coves.

(b) Definitions. As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Upper Mississippi River in the enforcement of the regulation.

(c) Regulations. (1) Under the general regulations in § 100.35, deviation from the regulations described in paragraph (a) of this section is prohibited unless authorized by the COTP Upper Mississippi River or designated representative.

(2) To seek permission to deviate from the regulation, contact the COTP or the COTP's designated representative via VHF-FM ch 16 or by calling Sector Upper Mississippi

River at 314-269-2332.

(d) Enforcement period. This section will be enforced from 9 a.m. to 6 p.m. on June 4, 2016.

Dated: May 6, 2016

M. L. MALLOY,

CAPTAIN, U.S. Coast Guard,

Captain of the Port Sector Upper Mississippi River.

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